

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 2182 OF 2005
IN
WRIT PETITION NO. 8585 OF 2004

Rajaram Maruti Hasabe & Ors. ..Applicants.

Versus

Vasant Rayappa Hasabe & Ors. ..Opponents.

Mr. S. Rupwate with N.R.Jadhav for the Applicants.

Mr. S.D.Patil for the Respondents Nos. 1 to 9.

CORAM : S. A. BOBDE, J.

DATED : 16TH SEPTEMBER, 2005.

P.C.:

1. The Applicants (Original Respondents) have moved this application for interim relief for restraining the Opponents (Original Petitioners) from carrying out any cultivation or any other activity on the public road which is in dispute, running through Gat Nos. 965,712,711,710, 669, 668, 672, 666 and 667. The learned counsel for the Opponents disputes the

existence of the road. Prima facie, the opponents' contention does not seem to be correct. It has been found by the Additional Commissioner in the order dated 26.08.2004 that it is clear that the road was in existence. The Additional Commissioner has, therefore, upheld the order of the Tahsildar, directing the TILR to demarcate the area namely, strip of land in question on which the road is said to exist.

2. This court on 15th December, 2004 directed the parties to maintain status-quo. Apparently, the respondents are cultivating the strip of land, which is said to be the road, as if it is agricultural land. This would obviously frustrate the purpose of the interim order granted by this court earlier.

3. It is contended on behalf of the Opponent that it is not possible to see which part of the land constitute the road and which part does not. In the circumstances, I am of view that without prejudice to the rights of the either parties at the time of final hearing of this case, the TILR should demarcate the road as ordered by the Tahsildar and as upheld by the Commissioner by the impugned order, after giving the

notice to all the concerned. After such demarcation , the original petitioners i.e. Opponents shall be restrained from carrying on any cultivation and/or any other operations on the road.

4. Civil Application is granted in terms of prayer clause (b) after compliance of the directions relating to the demarcation.

DT.16.09.05

(S.A.BOBDE, J)

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